

APPLICANT:
The Maryland Country Club, Inc.

REQUEST: Modification of special exception approval in Board of Appeals Case No. 4962, to subdivide the parcel into 3 residential lots

HEARING DATE: September 19, 2007

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5613

ZONING HEARING EXAMINER'S DECISION

APPLICANT: The Maryland Country Club, Incorporated

LOCATION: northeast side of MacPhail Road, Bel Air
Tax Map: 49 / Grid: 3F / Parcel: 208
Third (3rd) Election District

ZONING: R1 / Urban Residential District

REQUEST: Modification of Special Exception approval in Board of Appeals Case No. 4962, to subdivide the parcel into 3 residential lots in the R1, Urban Residential District.

TESTIMONY AND EVIDENCE OF RECORD:

The Applicant, The Maryland Country Club, Incorporated, is seeking a modification of a special exception granted by Board of Appeals Case No. 4962, to permit the subject parcel to be subdivided into three (3) residential lots, with the remaining lands, including tennis courts, to remain as part of the existing country club.

The subject parcel is located southeast of Bel Air, on the east side of MacPhail Road, at the entrance of the Maryland Golf and Country Club. It is more particularly identified on Tax Map 49, Grid 3F, Parcel 208. The parcel contains 3.915 acres.

Donn Deitrich, business manager for the Maryland Golf and Country Club, testified on behalf of the Applicant. The Applicant is requesting a modification of the special exception granted by the Board of Appeals in Case No. 4962, to permit the subdivision of the parcel into three (3) residential lots in the R1/Urban Residential District. The request is to release this portion of the holdings of the Country Club from the area covered by the special exception.

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Mr. Deitrich testified that the operation of the Country Club will not be affected by the modification. The overall acreage of the parcel is 4.375 acres. After the lots are created, there will be 1.65 acres that will remain with the holdings of the Country Club. Mr. Dietrich explained that an easement will be provided off of the main Country Club driveway for the lots.

Mr. Chris McCord, of Thompson & Accord Associates, LLC, presented and testified in reference to the preliminary plan, which was admitted into evidence as Applicant's Exhibit No. 1. Mr. McCord explained that the property is designed to build three (3) single-family homes on the building lots. The original plat has been modified to show access off of the Country Club driveway. The modification to the original plat was made at the request of the Harford County Department of Public Works. According to the witness, granting the requested modification would have no adverse impact on any adjoining properties. Two of the home sites will sit on MacPhail Road, and the common driveway off of the Country Club driveway will allow access to the properties.

Mr. Anthony S. McClune, Deputy Director for the Harford County Department of Planning and Zoning, appeared and testified regarding the findings of fact and recommendations made by that Agency. Mr. McClune indicated that the property has prior zoning history and had been reviewed by the Board of Appeals in Case No. 4708, where the Applicant requested approval for a special exception and variances to expand the existing Clubhouse. Board of Appeals Case No. 4962 modified Case No. 4708, allowing the relocation of the golf driving range and development of the original driving range area as single-family, residential lots. The Applicant is now requesting a modification of the special exception granted by the Board of Appeals in Case No. 4962, to permit the subdivision of the parcel into three (3) residential lots in the R1/Urban Residential District.

Mr. McClune indicated that the operation of the Country Club will not be affected by the modification. The parcel is 4.375 acres and after the lots are created, there will be 1.65 acres that will remain within the holdings of the Country Club. He noted that the Harford County Department of Public Works requested that the site plan be modified to provide access off of the Country Club driveway and not MacPhail Road. There is no part of the operations of the Country Club on the parcel. The closest operation is the tennis courts.

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Since the property is not part of the golf course property, the lots would be similar to others in that area, and the proposed lots meet with R1 zoning, Mr. McClune sees no adverse impact to any adjoining property or neighbor, and recommends approval.

No testimony or evidence was presented in opposition to the requested modification.

APPLICABLE LAW:

Harford County Code Section 267-51 - Purpose, states:

“Special exceptions may be permitted when determined to be compatible with the uses permitted as of right in the appropriate district by this Part 1. Special exceptions are subject to the regulations of this Article and other applicable provisions of this Part 1.”

Harford County Code Section 267-52 - Special Exception, states:

“.B. A special exception grant or approval shall be limited to the final site plan approved by the Board. Any substantial modification to the approved site plan shall require further Board approval.”

Furthermore, Section 267-9I of the Harford County Code, Limitations, Guides and Standards, is applicable to this request and is discussed in further detail below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants’ request a modification of an earlier special exception approval to allow the subdivision of a 4.357 acres lot from the Maryland Country Club Golf Course property. The subject parcel is not currently being used by the golf course property and would have no affect upon the Country Club operations. The property was not being used by the Country Club. The 4.357 acre parcel is not a part of the Country Club in any way.

The primary zoning classification in this area are R1 and R2/Urban Residential Districts. Single-family homes would normally be allowed on the property as a matter of right. It is only because the property is encumbered by the golf course special exception approval that this request is made.

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In this request for modification, a review of Harford County Code Section 267-9I, Limitations, Guides and Standards, is required to determine that no adverse impact will result.

Those factors are reviewed as follows:

“In addition to the specific standards, guidelines and criteria described in this Part 1 and other relevant considerations, the Board shall be guided by the following general considerations. Notwithstanding any of the provisions of this Part 1, the Board shall not approve an application if it finds that the proposed building, addition, extension of building or use, use or change of use would adversely affect the public health, safety and general welfare or would result in dangerous traffic conditions or jeopardize the lives or property of people living in the neighborhood. The Board may impose conditions or limitations on any approval, including the posting of performance guaranties, with regard to any of the following:

- (1) The number of persons living or working in the immediate area.

The proposal to create three (3) residential building lots on the subject parcel should have no significant impact on the number of people working or living in the neighborhood.

- (2) Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic; and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.

The proposal shall have no applicable impact on traffic. The original plat was modified to alleviate any concerns with respect to traffic and safety on MacPhail Road.

- (3) The orderly growth of the neighborhood and community and the fiscal impact on the county.

The proposal shall have no applicable impact on these considerations.

- (4) The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.

No such affects shall be created if developed as proposed by the Applicant.

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- (5) Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.

Public fire and police protection is available. The only public utility involved would be public sewer. The impact will be minimal.

- (6) The degree to which the development is consistent with generally accepted engineering and planning principles and practices.

The proposal is consistent with these considerations.

- (7) The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.

No such structures have been identified as potentially being adversely affected.

- (8) The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.

The proposal is consistent with all such purposes and studies.

- (9) The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.

There should be no environmental impact.

- (10) The preservation of cultural and historic landmarks.

No such landmarks have been identified.

Accordingly, no adverse impact upon any adjoining property owner or on the Maryland County Club property or upon the previous zoning approval related to the golf course property is found.

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CONCLUSION:

It is, accordingly, recommended that the modification of the special exception be granted, subject to the following conditions:

1. The Applicant shall submit a preliminary plan to the County for review and approval.
2. The Applicant shall submit a final plat for review and recordation with the County Land Records.
3. The lots shall not have direct access to MacPhail Road.
4. The driveway for the lot shall be connected to the existing entrance to the Country Club. An access easement for the lot shall be submitted to the County for approval and recordation with the final plat.
5. The lots shall meet all County and State requirements.

Date November 5, 2007

Michael H. Daney
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on DECEMBER 6, 2007.